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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/649,340	08/27/2003	Herbert Kaminski	B0004/7113	4165

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LAW OFFICES OF PAUL E. KUDIRKA
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BOSTON, MA 02109

EXAMINER

CARTER, AARON W

ART UNIT	PAPER NUMBER
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2624

MAIL DATE	DELIVERY MODE
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06/07/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/649,340

Applicant(s)

KAMINSKI ET AL.

Examiner

Aaron W. Carter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This action is responsive to papers filed on March 27, 2007.

Response to Amendment

2. In response to applicant's amendment received on March 27, 2007, all requested changes to the claims have been entered.

Response to Arguments

3. Applicant's arguments, see Remarks, pages 4-6, filed March 27, 2007, with respect to the rejection(s) of claim(s) 1 under 35 USC 102(b) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of USPN 6,057,839 to Advani et al. ("Advani").

Allowable Subject Matter

4. The indicated allowability of claims 4 and 6 is withdrawn in view of the newly discovered reference(s) to USPN 6,057,839 to Advani et al. ("Advani"). Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN 6,057,839 to Advani et al. (“Advani”).

As to claim 1, Advani discloses a method for the investigation of patterns in collections of peak-containing data strings or lists of peaks, the method comprising the following steps:

(a) displaying the data of the collections of the peak-containing data strings or peak lists in graphical form (Fig. 6A, wherein each strip graph corresponds to a collection of peak-containing data strings and multiple strip graphs correspond to collections of the data strings) ;

(b) calculating significant patterns, correlations or classifications within one or between different collections of peak-containing data strings or the peak lists by pattern recognition algorithms, thereby including a determination of the peaks significantly participating in the calculation of the significant patterns, correlations or classifications (column 9, lines 37-52, wherein average, mean, standard deviation or etc. are calculated and the peaks above and below the calculation are identified which correspond to significant patterns, correlations or classifications), and

(c) highlighting, in the graphical display of the peak-containing data strings or the peak lists, the peaks significantly participating in the calculation of the significant patterns, correlations or classifications (column 9, 37-52, wherein the peaks above and below the

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calculated average, mean, standard deviation, etc. are highlighted, see also column 10, lines 15-19).

As to claim 2, Advani discloses a method according to claim 1, wherein the peak-containing data strings are displayed, in step (a), by a density plot (Fig. 6A).

As to claim 3, Advani discloses a method according to claim 1, wherein features of the graphical display are interactively accessible (column 9, line 54 – column 10, line 15).

As to claim 4, Advani discloses a method according to claim 3, wherein an ensemble of start peaks for the pattern recognition algorithms is selected from the graphical display (column 10, lines 7-15).

As to claim 5, Advani discloses a method according to claim 3, wherein peaks are selected on the display before the pattern recognition algorithms are started and the selected peaks are highlighted in the graphical display together with the peaks which significantly participate in the calculation of significant patterns, correlations or classifications (column 10, lines 7-15).

As to claim 6, Advani discloses a method according to claim 3, wherein after pattern recognition by the pattern recognition algorithms is completed, a peak on the graphical display is selected in order to show more information with respect to the peak's participation in the

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calculation of the significant patterns, correlations or classifications (column 10, lines 16-28 and Fig. 7).

As to claim 7, Advani discloses a method according to claim 1, wherein the intensity values of the peak-containing data strings are transformed by a filter before the pattern recognition algorithm is applied (column 9, lines 19-36).

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron W. Carter whose telephone number is (571) 272-7445. The examiner can normally be reached on 8am - 4:30 am (Mon. - Fri.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bhavesh Mehta can be reached on (571) 272-7453. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Aaron Carter
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